

ARTICLE 11

SALE OF FIREARMS AND MUNITIONS, PERMIT REQUIREMENTS FOR FIREARMS DEALERS

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ARTICLE 11

PERMIT REQUIREMENTS FOR FIREARMS DEALERS

SEC. 6-11.00 PURPOSE. The purpose of this article is to provide uniform regulations applicable to all firearm dealers in the City.

SEC. 6-11.01 DEFINITIONS.

- a. Firearms means any device designed to be used as a weapon or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of an explosion or other form of combustion.
- b. Ammunition, as used in this article, shall include any ammunition for use in any firearm.
- c. Firearms dealer means a person engaged in the business of selling, transferring, or leasing; or advertising for sale, transfer, or lease' or offering or exposing for sale, transfer, or lease, any firearm and/or ammunition, either directly or indirectly; and/or engaged in the retail sale of ammunition.
- d. Engaged in the business means the conduct of a business by the selling, transferring, or leasing of any firearm and /or ammunition; or the preparation for such conduct of business as evidenced by the securing of applicable federal or state licenses; or the holding of one's self out as engaged in the business of selling, transferring, or leasing of any firearm and/or ammunition; or the selling, transferring, or leasing of firearms and/or ammunition, in quantity, in series, or in individual transactions, or in any other manner indicative of trade.
- e. Person means a natural person, association, partnership, firm, or corporation.
- f. Chief of Police means the Chief of Police of the Hayward Police Department or his or her designee.

SEC. 6-11.02 PERMIT REQUIRED. It shall be unlawful for any person, partnership, cooperative, corporation, firm, or association to engage in the business of operating or managing any business which sells, transfer, leases, or offers or advertises for sale, transfer, or lease, any firearm and/or ammunition without first obtaining a firearms dealer permit from the Chief of Police of the Hayward Police Department.

SEC. 6-11.03 APPLICATION FORM; FEE. An applicant for a Permit under this article shall file with the Chief of Police a sworn application in writing, on a form to be prescribed by the City. The application shall be accompanied by a non-refundable fee for administering this chapter as set forth in the City's Master Fee Resolution. The applicant shall provide all information requested to demonstrate compliance with this article, including:

- a. The name, age and address of applicant;
- b. The address of the proposed location for which the permit is required, together with

the business name, if any;

- c. Proof of a possessory interest in the property at which the proposed business will be conducted, in the form of ownership, lease, license, or other entitlement to operation at such location and the written consent of the owner of record of the real property;
- d. A floor plan of the proposed business which illustrates the applicant's compliance with security provisions of section 6-11.06;
- e. Proof of compliance with all federal and state licensing laws;
- f. Information relating to licenses or permits relating to other weapons sought by the applicant from other jurisdictions, including, but not limited to date of application and whether each application resulted in issuance of a license;
- g. Information relating to any and every pending or former revocation of a license or permit held by applicant relating to firearms, including, but not limited to date and circumstances of the revocation;
- h. Applicant's agreement to indemnify, defend and hold harmless the city, its officers, agents, and employees from and against all claims, losses, costs, damage, and liabilities of any kind, including attorney fees, arising in any manner out of the applicant's negligence or intentional or willful misconduct;
- i. Certification of satisfaction of insurance requirements under section 6-11.08;
- j. All convictions of the applicant for any of the offenses listed in section 6-11.11 subd.e.;
- k. Information from the City of Hayward Department of Economic Development indicating that the design and location of the proposed business complies with the requirements of the City's zoning code.

SEC. 6-11.04 APPLICATION; INVESTIGATION. The Chief of Police shall conduct an appropriate investigation to determine for the protection of the public safety whether the permit may be issued. The Chief of Police may require an applicant, or any officer, agent, or employee thereof, to provide fingerprints, a recent photograph, a signed authorization for the release of pertinent records, a complete personal history set forth on a questionnaire provided by the Police Chief, and any other additional information which the Police Chief considers necessary to complete the investigation.

SEC. 6-11.05 CONDITIONS OF APPROVAL. In addition to other requirements and conditions of this article, a permit is subject to the following conditions, the breach of any of which is sufficient cause for revocation of the permit by the Chief of Police:

- a. The business shall be carried on only in the building located at the street address shown on the permit. This requirement, however, does not prohibit the permittee from participating in a gun show or event which is authorized by federal and state law upon compliance with federal and state law;
- b. The permit, or a certified copy of it, shall be displayed on the premises and at gun shows where it can be easily seen;

- c. The applicant shall not permit any person under 18 years of age to enter or remain within the premises without being accompanied by the parent or other adult legally responsible for the minor child where the firearms and/or ammunition sales activity is the primary business performed at the site;
- d. The permittee shall not deliver a firearm to a purchaser earlier than is allowed by applicable state and federal law;
- e. The permittee shall not deliver a firearm to another purchaser, lessee, or other transferee unless the firearm is unloaded and securely wrapped or unloaded in a locked container;
- f. The permittee shall not deliver a firearm to a purchaser, lessee, or other transferee under the age of 18 years, or a firearm capable of being concealed upon the person to another person under the age of 21 years. Clear evidence of the identity and age of the purchaser shall be required before delivery of a firearm to a purchaser, lessee, or other transferee. Evidence of identity may include, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employee identification card containing the bearer's signature and photograph, or similar documentation which provides the permittee or seller reasonable assurance of the identity and age of the purchaser;
- g. The permittee shall not sell, lease or otherwise transfer a firearm to a person whom the permittee or seller has reason to believe is within any of the classes prohibited by Penal Code sections 12021 or 12021.1, or Welfare and Institutions Code section 8100 or 8103;
- h. No firearm or imitation of one, or placard advertising its sale or other transfer, shall be displayed in any part of the premises where it can readily be seen from the outside;
- i. The permittee shall not sell, lease, or otherwise transfer a firearm without also selling or otherwise providing with each such firearm a trigger lock or similar device that is designed to prevent the unintentional discharge of the firearm;
- j. The permittee shall properly and promptly process firearms transactions as required by Penal Code section 12082;
- k. The permittee shall keep a register of sales as required by Penal Code sections 12073 and 12077;
- l. The permittee shall post conspicuously within the licensed premises all charges and fees required by Penal Code section 12071(b)(11) and the following warning in block letters not less than one inch in height:

**IF YOU LEAVE A LOADED FIREARM WHERE A CHILD OBTAINS AND
IMPROPERLY USES IT, YOU MAY BE FINED OR SENT TO PRISON**

- m. No firearm capable of being concealed on the person shall be delivered to a purchaser or transferee, unless that person presents to the permittee or seller a current basic firearm safety certificate, unless otherwise exempted by state law;

- n. The permittee shall offer to provide to the purchaser or transferee of a firearm a copy of the pamphlet described in Penal Code section 12080 and may add the cost of the pamphlet, if any, to the sales price of the firearm;
- o. The permittee shall report to the police department the loss or theft of a firearm and/or ammunition that is merchandise of the permittee, a firearm that the permittee takes possession of pursuant to Penal Code section 12082, or a firearm and/or ammunition kept at the permittee's place of business, within 48 hours of discovery.

SEC. 6-11.06 REQUIREMENT OF SECURED FACILITY.

- a. In addition to the conditions of approval stated in section 6-11.04, the business location as shown on the police permit shall be a secured facility meeting all of the following specifications:
 - (1) Every perimeter doorway shall include one of the following:
 - (i) A windowless steel security door equipped with both a dead bolt and a doorknob lock; or
 - (ii) A windowed metal door that is equipped with both a deadbolt and a doorknob lock. If the window has an opening of five inches or more measured in any direction, the window shall be covered with steel bars of at least one-half inch diameter or metal grating of at least nine gauge affixed to the exterior or interior of the door;
 - (2) Every perimeter doorway shall also be provided with an exterior metal grate that is padlocked and affixed to the permittee's premises independent of the door and the door frame;
 - (3) Every window covered with steel bars;
 - (4) Heating, ventilating, air-conditioning and service openings are secured with steel bars, metal grating;
 - (5) Any metal grate may not have a space larger than six inches wide measured in any direction;
 - (6) Each metal screen may not have a space larger than three inches wide measured in any direction;
 - (7) All steel bars shall be no further than six inches apart;
 - (8) Every building used for the display, sale, transfer, or storage of firearms and/or ammunition shall be equipped with an alarm system that sounds both an audible intrusion alarm and a silent intrusion alarm transmitted to a central monitoring station. The alarm system shall be installed to protect all windows, doors, grates, roof access doors, heating, ventilating, air conditioning, and service openings. The alarm system shall also be equipped with a button or device to activate the silent alarm in the event of a robbery.
- b. The Chief of Police may approve alternative security which he or she considers will

provide equivalent or superior security to the premises as the measures required under subsection (a) of this section.

- c. Every firearm that is kept in the permitted place of business shall be stored using one of the following methods:
 - (1) The firearm shall be secured with a hardened steel rod or cable of at least one-eighth inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents that removal of the firearm from the premises;
 - (2) The firearm shall be stored in a locked fireproof safe or vault in the permittee's place of business;
 - (3) All firearms shall be stored on the premises out of the reach of customers in secure, locked facilities approved by the Chief of Police by which access to firearms is controlled by the permittee or seller to the exclusion of all others.

SEC. 6-11.07 RECORDS OF AMMUNITION SALES.

- a. No firearm dealer shall sell or otherwise transfer ownership of any ammunition without recording, at the time of purchase, the following information on a form to be prescribed by the Police Chief: the date of the transaction; the name, address and date of birth of the transferee; the transferee's driver's license or other identification number and the state in which it was issued; the brand, type and lot or batch number, if any, and amount of ammunition transferred; and the transferee's signature.
- b. The information required to be recorded shall be maintained in chronological order by date of sale of the ammunition and shall be retained on the business premises of the vendor for a period not less than two 2 years following the date of the recorded sale of the ammunition.
- c. City of Hayward Police Officers may enter a vendor's premises during regular business hours for the purpose of examining or inspecting records required by this section.

SEC. 6-11.08 LIABILITY INSURANCE.

- a. No permit shall be issued or reissued unless there is in effect a policy of insurance in a form approved by the City Attorney and executed by an insurance company approved by the City Attorney, whereby the applicant is insured against liability for damage to property and for injury to or death of any person as a result of the sale, lease, or transfer or offering for sale, lease or transfer of a firearm. The minimum liability limits shall not be less than \$1,000,000 for each incident of damage to property or incident of injury or death to a person, provided, however, that additional amounts may be required by the City Attorney if deemed necessary.
- b. The policy of insurance shall contain an endorsement providing that the policy shall not be canceled until notice in writing has been given to the Chief of Police at least 30 days prior to the time the cancellation becomes effective;

- c. Upon expiration of a policy of insurance and if no additional insurance is obtained, the permit is considered canceled without further notice. The burden is on the permittee to show that a policy has been renewed or obtained.

SEC. 6-11.09 ISSUANCE OF PERMIT; DURATION.

- a. The Chief of Police may grant a permit to the applicant if he or she finds that the applicant complies with all applicable federal, state, and local laws, including, but not limited to, the state Penal Code, City building code, fire code, and zoning code.
- b. A permit expires one year after the date of issuance. A permit may be renewed for additional one-year periods upon the permittee's submission of an application for renewal, accompanied by a non-refundable renewal fee established by and set forth in the City's Master Fee Resolution.
- c. A decision regarding issuance or renewal may be appealed in the manner provided for in section 6-1.40.

SECTION 6-11.10 PERMIT; AUTHORITY TO INSPECT. Any and all investigating officials of the City shall have the right to enter the building designated in the permit from time to time during regular business hours to make reasonable inspections to observe and enforce compliance with building, mechanical, fire, electrical, plumbing, or health regulations, and provisions of this article. A police investigator may conduct compliance inspections to insure conformance to all federal, state, and local law, and all provisions of this article.

SEC. 6-11.11 GROUNDS FOR PERMIT DENIAL. The Chief of Police shall deny the issuance or renewal of a permit when one or more of the following conditions are met:

- a. The applicant is under 21 years of age;
- b. The applicant is not licensed as required by federal, state, and local law;
- c. The applicant has had a firearms permit or license previously revoked or denied for good cause within the immediately preceding two years;
- d. The applicant has made a false or misleading statement of a material fact or omission of a material fact in the application for a permit. If a permit is denied on the ground, the applicant is prohibited from reapplying for a permit for a period of two years;
- e. The applicant has been convicted of:
 - (1) An offense which disqualifies the applicant from owning or possessing a firearm under federal, state and local law, including, but not limited to, the offenses listed in Penal Code section 12021;
 - (2) An offense relating to the manufacture, sale, possession, use, or registration of a firearm or dangerous or deadly weapon;
 - (3) An offense involving the use of force or violence upon the person of another;
 - (4) An offense involving theft, fraud, dishonesty, or deceit;

- (5) An offense involving the manufacture, sale, possession, use of a controlled substance as defined by the state Health and Safety Code, as it now reads or may hereafter be amended to read;
- f. The applicant is within a class of persons defined in the Welfare and Institutions Code sections 8100 or 8103;
- g. The applicant is currently, or has been within the past two years, an unlawful user of a controlled substance as defined by the Health and Safety Code as that definition now reads or may hereafter be amended to read;
- h. The operation of the business as proposed would not comply with federal, state, and local law;

SEC. 6-11.12 GROUNDS FOR PERMIT REVOCATION. In addition to the violation of any other provisions contained in this chapter, circumstances constituting grounds for denial of a permit also constitute grounds for revocation.

SEC. 6-11.13 HEARING FOR PERMIT DENIAL OR REVOCATION.

- a. A person whose application for a permit is denied or revoked by the Chief of Police has the right to a hearing before the Chief of Police before final denial or revocation.
- b. Within ten days of mailing written notice of intent to deny the application or revoke the permit, the applicant may request a hearing before the Chief of Police. The request must be made in writing, setting forth specific grounds for reconsideration. If the applicant submits a timely request for reconsideration, the Chief of Police shall set a time and place for the hearing within 30 days.
- c. The decision of the Chief of Police shall be in writing within ten days of the hearing. An applicant may appeal the decision of the Chief of Police to the City Manager in the manner provided in section 6-1.40.

SEC. 6-11.14 NONASSIGNABILITY. A permit issued under this article is not assignable. An attempt to assign a firearms permit shall render the permit null and void.

SEC. 6-11.15 COMPLIANCE. Any person engaging in the business of selling, transferring, or leasing, or advertising for sale, transfer, or lease, or offering or exposing for sale, transfer, or lease, any firearm on the effective date of this article shall have a period of 60 days after such effective date to comply with the provisions of this article.

SEC. 6-11.16 SEVERABILITY. This article shall be enforced to the full extent of the authority of the City of Hayward. If any section, subsection, paragraph, sentence, or word of this article is deemed to be invalid or beyond the authority of the City of Hayward, either on its face or as applied, the invalidity of such provision shall not affect the other sections, subsections, paragraphs, sentences, or words of this article, and the applications thereof; and to that end the section, subsections, paragraphs, sentences and words of this article shall be deemed severable.